Remarks

Claims 1-89 were pending in the subject application. Claims 1-65 and 74-88 have been withdrawn from consideration. By this amendment, applicants canceled claims 1-88 without disclaimer or prejudice and amended claim 89. Accordingly, claim 89, as amended, is pending and under examination upon entry of this response.

Priority

In the June 4, 2007 Office Action, the Examiner granted effective filing date April 21, 1989 for the subject matter in claims 66-68 and 70 based on the filing date of U.S. Serial No. 07/341,436. The Examiner further granted effective filing dates of December 24, 1986 for the subject matter in claim 69 based on the filing date of U.S. Serial No. 06/946,365 and the effective filing date of November 13, 1991 for the subject matter of claims 71-73 and 89 based on the filing date of U.S. Serial No. 07/791,898.

Applicants respectfully request that the subject matter of claim 89, as amended, be granted the April 21, 1989 effective filing date based on the filing date of U.S. Serial No. 07/341,436. The subject matter of claim 89, is disclosed, *inter alia*, on page 5, lines 17 and 23 to 28; on page 8, line 1 to page 9, line 9; and on page 28, line 27 to page 29, line 3 of the '436 application. The '436 application, for example, provides "In particular, the present invention relates to a method of regulating (enhancing or diminishing) the activity of NF-κB in cells in which it is present and capable of acting as an intracellular messenger, as well as to substances or compositions useful in such a method." (emphasis added). Further, the '436 application provides "The present invention

In the Drawings

Please cancel Figure 43 from the subject application under examination pursuant to M.P.E.P. §608.02(t). In accordance with M.P.E.P. §608.02(t) a copy of annotated Figure 43 surrounded by brackets and identified as "Canceled" is attached hereto as **Exhibit A**.

relates to a method of regulating or influencing transduction, by NF-κB, of extracellular signals into specific patterns of gene expression and, thus of regulating NF-κB-mediated gene expression in cells..." (emphasis added, page 5, lines 17-22). Finally, the '436 application provides that extracellular polypeptides including the cytokines IL-1 and TNF-α activate NF-κB binding (see page 22, lines 27-29).

Accordingly, applicants maintain that the '436 application discloses the method recited in amended claim 89 and therefore, respectfully request that amended claim 89 be granted priority back to the filing date of the '436 application, specifically, April 21, 1989.

Pursuant to M.P.E.P §201.11 applicants have deleted the claim to benefit of applications filed earlier than U.S. Serial No. 07/341,436, filed April 21, 1989.

Rejections which are Now Moot

The Examiner rejected claims 66-70 under 35 U.S.C. §101, as allegedly directed to non-statutory subject matter. Since claims 66-70 have been canceled, this rejection is moot.

The Examiner rejected claims 66-68 and 70 under 35 U.S.C. §102(b) as allegedly anticipated by the Physician's Desk Reference (PDR:1985) pages 1811-13; Griffith I (Griffith et al., Ann. Surg. 196(9/82):324-329) or Griffith II (Griffith et al., J. Thorac. Cardiovasc. Surg. 99 (12/84):952-957) as evidenced by Holschermann et al., Circulation 96 (12/97) 4232-4238. Since claims 66-68 and 70 have been canceled, this rejection is moot.

The Examiner rejected claims 66-67, 69 and 70 under 35 U.S.C. §102(b) as allegedly anticipated by Gerscher et al. or Hunter et al. Since claims 66-67, 69 and 70 have been canceled, this rejection is moot.

The Examiner rejected claims 71-72 under 35 U.S.C. §102(b) as allegedly anticipated by Pasleau et al. Since claims 71-72 have been canceled, this rejection is moot.

The Examiner rejected claims 71-73 under 35 U.S.C. §102(b) as allegedly anticipated by Cullen. Since claims 71-73 have been canceled, this rejection is moot.

The Examiner rejected claims 71-72 under 35 U.S.C. §102(b) as allegedly anticipated by Banerji et al. or Humphries et al. Since claims 71-72 have been canceled, this rejection is moot.

The Examiner provisionally rejected claims 66-73 under 35 U.S.C. §101 as allegedly claiming the same invention as that of claims 66-73 of copending Application No. 10/037,341. Since claims 66-73 have been canceled, this rejection is moot.

The Examiner rejected claims 66-68 and 70 on the ground of nonstatutory obviousness-type double patenting as allegedly unpatentable over claims 1-5, 9-17, 20-63, 88-176 and 192-203 of U.S. Patent No. 6,410,516. Since claims 66-68 and 70 have been canceled, this rejection is moot.

REJECTIONS OF CLAIM 89

Rejection under 35 U.S.C. §101

In the June 4, 2007 Office Action, the Examiner rejected claim 89 under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. The Examiner alleged that the levels and activity of NF-κB are regulated (increased or decreased) by normal metabolic processes and the function of NF-κB to act as an intracellular messenger to transmit signals that induce expression of target genes is likewise a natural process in cells of the human body. The Examiner alleged that "the instant claims therefore read on naturally occurring phenomena which do not recite, or require, the hand of man."

Applicants' Response

In response, applicants respectfully traverse on the basis that amended claim 89 affirmatively recites a method for achieving a stated result which does not occur by natural phenomena. Accordingly, applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 89 under 35 U.S.C. §101.

Rejection under 35 U.S.C. §102(b)

In the June 4, 2007 Office Action, the Examiner rejected claim 89 under 35 U.S.C. §102(b) as allegedly anticipated by the Physician's Desk Reference (PDR:1985) pages 1811-13; Griffith I (Griffith et al., Ann. Surg. 196(9/82):324-329) or Griffith II (Griffith et al., J. Thorac. Cardiovasc. Surg. 99 (12/84):952-957) as evidenced by Holschermann et al.,

Circulation 96 (12/97) 4232-4238. The Examiner alleged that the conflicting claims are inherently anticipated by the prior art.

Specifically, the Examiner alleged that PDR(1985), Griffith (I) and Griffith (II) "teach administration of cyclosporine A (CsA) to (into) cells in the cardiac patients, which is shown from the teachings of Holschermann to inherently regulate (reduce) NF-κB activity and this would inhibit (reduce) expression of genes whose transcription is regulated by NF-κB activity."

In response, the applicants' respectfully traverse.

On page 7 of the June 4, 2007 Office Action, the Examiner alleged that Holschermann et al. provides extrinsic evidence that the PDR 1985, Griffith et al. I and Griffith et al. II references inherently anticipate the subject. Further, the Examiner alleges that Holschermann et al. "essentially repeated the tests disclosed in the Griffith I and II references by administering 3.4 + 0.3mg/kg/day CsA to cardiac transplant patients, resulting in blood levels of 681 + 176 ng/ml." The applicants respectfully traverse. Holschermann et al. did not "essentially" repeat the tests disclosed in Griffith et al. I and II. In this regard applicants direct the Examiner to the Declaration Under 37 C.F.R. § 1.132 of Dr. Inder Verma, attached as **Exhibit B** and previously filed in copending application U.S. Serial No. 10/037,341. As discussed in paragraphs 12 and 13 of the Declaration of Dr. Inder Verma, the protocol used by Holschermann et al. differs from the protocols used by Griffith et al. I and Griffith et al. II. Patients in the prior art studies did not receive the same

drug cocktail as those in Holschermann et al. and therefore it is unclear what effect, if any, CsA had on the patients. One skilled in the art would expect a cocktail of different active drugs, as described, to result in different patient outcomes. Certainly one skilled in the art would not understand results of a different protocol to explain what inherently happened in the prior art.

Further, the PDR 1985 provides dosage and administration instructions for the use of CsA and discloses a specific protocol of administration: "the initial does of Sandimmune (cyclosporine) Oral Solution should be given 4-12 hours prior to transplantation..." (emphasis added, page 1813, first column). Likewise, the timing of administration of the drug cocktails differs between the prior art and Holschermann et al. as discussed in paragraph 13 of the Declaration of Dr. Inder Verma. Holschermann et al. do not begin CsA treatment until 3 to 4 days after surgery, a highly relevant departure from the studies described in the prior art. Therefore, not only does the prior art disclose pretreatment of subjects with CsA, but Holschermann et al. cannot be used to explain what occurred in the prior art.

Further, on pages 7-8 of the June 4, 2007 Office Action, the Examiner alleged that Holschermann et al. "confirms that administering CsA to cardiac patients as taught by the prior art PDR 1985 and Griffith I and II references necessarily inherently reduces NF-κB activity (and binding of NF-κB to NF-κB recognition sites)." Specifically, the Examiner asserted that "In cells obtained from transplant recipient during low baseline CsA blood levels (before CsA administration), strong NF-κB binding activity was detected (Fig. 4), whereas cells

separated from blood in the presence of high CsA concentrations exhibited decisively reduced NF-KB biding activity." The Examiner alleged that "Holshermann also showed that the administration of CsA to these patients as taught in the prior art PDR 1985 and Griffith I and II references reduced Tissue Factor (TF) gene transcription, which is recognized as being regulated by NF-κB: 'Indeed, the marked activation of the NF-κB transcription factor, which is known to play a major role in the regulation of the TF gene, was prevented in the presence of high CsA blood concentrations.' Id. At 4237."

As discussed in paragraphs 15 and 16 of the Declaration of Dr. Inder Verma and elaborated further below, Figures 3 and 4 of Holschermann et al., which the Examiner has pointed to in alleged confirmation of the ability of CsA to reduce the levels of tissue factor (TF) purported to be regulated by NF-κB, cannot demonstrate that the administration of CsA as described by Holschermann et al. reduces expression of a gene that had been induced, as recited by claim 89.

First, in Figure 3, the sample loaded into lane 2, which is derived from blood collected from patients prior to the daily CsA administration has no detectable level of mRNA. Further, it is only after a six hour incubation that one can observe a faint TF mRNA band, as indicated in lane 3. Notably, the sample collected from a patient after CsA administration and incubated for 6 hours shows no reduction in band intensity as shown in lane 6. It is only when the sample is incubated with LPS for 6 hours, can a prominent band be observed in lane 4, indicating an increase in TF mRNA transcription. These

results demonstrate that the administration of CsA prevented the induction of TF mRNA by LPS as is indicated by the faint band in lane 7. Therefore, Figure 3 of Holschermann et al. shows that CsA cannot reduce existing TF transcription, though it appears to prevent activation of TF.

Likewise, comparision of these TF mRNA transcription results with those presented in Figure 4 demonstrate that CsA cannot reduce activated NF-κB. First, the samples depicted in the "prior to" panel cannot correlate with a sample "prepared from blood mononuclear cells freshly isolated from transplant recipients before….CsA administration" (Figure 4, legend). If this were correct, Figure 3, lane 2, would depict the presence of TF mRNA, but it does not. The lack of activated TF mRNA, which is purported to be regulated by NF-κB, in samples obtained from patients prior to CsA administration indicates there is no activated NF-κB. The only conclusion that could correlate the results in Figure 3 to Figure 4 is that the samples obtained prior to CsA administration were incubated for 6 hours in the presence of LPS to stimulate NF-κB activity. In fact, in the legend for Table 2, such a step is described: "Mononuclear cell were isolated from peripheral blood samples of heart transplant recipients before and 4 hours after CsA administration, respectively, and assayed for TF activity after 6 hours of incubation with LPS" (page 4235). Therefore, the only interpretation that can reconcile the intense NF-κB bands observed in the "prior to" sample in Figure 4 with the results shown in Figure 3 is that the samples underwent the 6 hour incubation with LPS. Otherwise, the disconnect between the lack of TF transcription (Figure 3, lane 2) compared to intense NF-κB bands observed in the "prior

to" samples in Figure 4 still exists. Since NF-κB has been shown to activate transcription of TF, the only reasonable explanation is the one provided above. Consequently, not only did Holschermann et al. not carry out the therapy protocols set forth in the prior art, but the data obtained by Holschermann et al. does not demonstrate that CsA reduced expression of a gene that had been induced, as recited by claim 89.

Finally, as discussed in paragraph 17 of the Declaration of Dr. Inder Verma, the prior art references, PDR 1985, Griffith et al. I and Griffith et al. II do not provide enough detail to enable one of skill in the art to repeat their studies and arrive at the same results. The 1985 PDR provides dosage and administration instructions for the use of cyclosporine A. One of skill in the art would understand, that if one were to practice the method described in the 1985 PDR, one would observe a number of non-responsive patients or patients who exhibit adverse reactions (see table, page 1812). Therefore, the inherent variability in patient response to CsA and lack of access to the same patients populations used in these studies render it impossible for one to repeat the studies described in the prior art and obtain the same results. The 1985 PDR notes that "several study centers have found blood monitoring of cyclosporine useful in patient management" (page 1813, second column) and Griffith et al. II emphasizes this point, noting "the principal message is the lack of correlation between the dose of cyclosporine and the whole-blood level. Monitoring of the blood level in necessary to ensure that the administered dose provides a significant level of circulating cyclosporine" (page 954, first column). Thus, the lack of availability of the patient populations used in

prior studies as well as the inherent variability in patients' responses to CsA would not enable one to practice the 1985 PDR, Griffith et al. I and Griffith et al. II studies and arrive at the same result.

Accordingly, claim 89 is not anticipated by the 1985 PDR, Griffith et al. I and Griffith et al. II and the rejection under 35 U.S.C. §102 should be withdrawn.

Double Patenting-Obviousness

On page 14 of the June 4, 2007 Office Action, the Examiner provisionally rejected claim 89 under the doctrine of obviousness-type double patenting as unpatentable over claims 1-5, 7-17, 20-63, 88-176 and 192-203 of U.S. Patent No. 6,410,516. Also, on page 15 of the June 4, 2007 Office Action, the Examiner rejected claim 89 on the ground of nonstatutory obviousness-type double patenting as allegedly unpatentable over claims 66, 68 and 89-90 of copending U.S. Serial No. 10/037,341. The Examiner alleged that the conflicting claims are not patently distinct from each other.

Further, applicants respectfully defer discussion of the provisional rejection until the obviousness-type double patenting rejection is the only rejection remaining in the present application. M.P.E.P. §804(I)(B).

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In accordance with their duty of disclosure under 37 C.F.R. §1.56, applicants direct the Examiner's attention to the following disclosures, which are listed on Form PTO-1449 (**Exhibit C**). Copies of all of the documents listed have been submitted in connection with U.S. Patent No. 6,410,516 and its in reexamination proceedings (*Ex Parte* eexamination Control Nos.90/007,503, filed April 4, 2005, and 90/007,828, filed December 2, 2005), which documents are publicly available. The subject application claims benefit of the filing date of U.S. Patent No. 6,410,561 under 35 U.S.C. §120. Accordingly, copies of items 1-280 are not attached to this Supplemental Information Disclosure Statement but are readily available to the Examiner and to the public from the file history of U.S. Patent No. 6,410,516.

1. June 9, 2006 Complaint, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
2. July 12, 2006 Notice of Hearing, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
3. August 2, 2006 Memorandum Of Law In Support Of Defendant's Motion To Dismiss Or In The Alternative For Summary Judgement And Opposition To Plaintiffs' Motion For Summary Judgment, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
4. August 2, 2006 Statement Regarding Eli Lilly & Company's Motion To Intervene And For Leave To File, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
5. August 14, 2006 Notice Of Filing, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);

6. August 14, 2006 Plaintiffs' Brief in Opposition To Motion To Intervene By Eli Lilly and Company, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
7. August 14, 2006 Plaintiffs' Brief In Reply To Defendant's Motion To Dismiss Or In the Alternative For Summary Judgment And Opposition To Plaintiffs' Motion For Summary Judgment, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679 (CMH/BRP);
8. August 28, 2006 Reply Memorandum In Support Of Defendant's Motion To Dismiss, Or, In the Alternative, For Summary Judgment, *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679;
9. October 3, 2006 Order (Defendant's Motion to Dismiss), *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679;
10. October 3, 2006 Order (Eli Lilly & Company's Motion to Intervene), *Ariad Pharmaceuticals, Inc. V.* Jon W. Dudas, Civil Action 1:06cv679;
11. August 2, 2006 Defendant Eli Lilly And Company's Pre-Trial Brief, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;
12. August 2, 2006 Plaintiffs' Supplemental Trial Brief, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;
13. September 11, 2006 Plaintiffs' Proposed Findings of Fact and Conclusions of Law on the issues of Inequitable Conduct, Indefiniteness, Prosecution Laches, and Non-Patentable Subject Matter, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;
14. September 11, 2006 Lilly's Post-Trial Proposed Findings Of Fact And Conclusions Of Law Relating To (1) Invalidity

Under 35 U.S.C. §101, (2) Unenforceability For Inequitable Conduct, And (3) Unenforceability For Prosecution Laches, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;

15. September 29, 2006 Plaintiffs' Reply To Lilly's Proposed Findings of Fact And Conclusions of Law On the Issues of (1) Patentability Under 35 U.S.C. §010, (2) Inequitable Conduct, and (3) Prosecution Laches, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;
16. September 29, 2006 Lilly's Response To Ariad's Proposed Findings of Facts And Conclusions of Law, *Ariad Pharmaceuticals, Inc. V. Eli Lilly and Company*, Civil Case 02 CV 11280 RWZ;
17. April 20, 2006 Complaint For Declaratory Judgment Of Patent Invalidity And Non-Infringement, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action No. ____ ;
18. April 20, 2006 Civil Cover Sheet, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action CA ___ ;
19. April 20, 2006 Report On The Filing or Determination of an Action Regarding a Patent or Trademark, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action CA 06-259;
20. June 14, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Motion To Dismiss For Lack of Subject Matter Jurisdiction, Failure To State a Claim, And Failure To Join Indispensable Parties, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
21. June 14, 2006 Declaration of Laurie A. Allen (including Exhibits A-D), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
22. June 14, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Opening Memorandum of Law In Support Of Its Motion To

Dismiss For Lack of Subject Matter Jurisdiction, Failure To State A Claim For which Relief May Be Granted, And Failure To Join Indispensable Parties (including Tab 1), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

23. June 28, 2006 Declaration of Paul Cantrell, Esq. Signed May 18, 2006, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action No. 1:06-cv-259 (KAJ);
24. June 28, 2006 Declaration of Melanie K. Sharp (including Exhibits A-L), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action No. 1:06-cv-259 (KAJ);
25. June 26, 2006 Declaration of Frank Ungemach (including Exhibits A-H), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action No. 1:06-cv-259 (KAJ);
26. June 28, 2006 Plaintiffs' Opposition To Ariad's Motion To Dismiss For Lack of Subject Matter Jurisdiction, Failure To State a Claim, And Failure to Join Indispensable Parties (including Exhibits A-D unreported cases), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
27. July 12, 2006 Declaration of Fritz Casselman, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
28. July 13, 2006 Declaration of Patricia Carson, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
29. July 13, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Reply Memorandum of Law In Support of its Motion to Dismiss For Lack of Subject Matter Jurisdiction, Failure to State a Claim For Which Relief May Be Granted, And Failure To Join Necessary And Indispensable Parties, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

30. July 12, 2006 Supplemental Declaration of Laurie A. Allen, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
31. Proposed Final Pretrial Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
32. July 19,, 2006 Scheduling Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
33. July 19, 2006 Trial Management Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
34. July 21, 2006 Letter to Judge Jordan from Melanie K. Sharp of Young Conaway Stargatt & Taylor, LLP, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
35. July 25, 2006 Letter to Judge Jordan from Steven J. Balick of Ashby & Geddes, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
36. August 30, 2006 Letter to Judge Jordan from Steven J. Balick of Ashby & Geddes (including Exhibits A & B), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
37. August 31, 2006 Letter to Judge Jordan from Melanie K. Sharp of Young Conaway Stargatt & Taylor, LLP (including Exhibits 1 & 2), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
38. September 13, 2006 Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
39. September 25, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Motion Certification Pursuant to 28 U.S.C. §1292(b), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
40. September 25, 2006 Defendant Ariad Pharmaceuticals Inc.'s Opening Memorandum of Law In Support of Its Motion For

Certification Pursuant To 28 U.S.C. §1292(b), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

41. September 25, 2006 Ariad Pharmaceuticals, Inc.'s Answer To Compliant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
42. September 25, 2006 Declaration of Elizabeth L. Rosenblatt In Support of Ariad Pharmaceuticals, Inc.'s Motion For Certification Pursuant To 28 U.S.C. §1292(b) (including Exhibits A-Q), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
43. October 2, 2006 Ariad Opposition Ex. A-C, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
44. October 10, 2006 Plaintiffs' Memorandum in Opposition To Ariad's Motion For Certification Pursuant to 28 U.S.C. §1292(b), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
45. October 10, 2006 Amgen Appendix of Exhibits 1-2 To Pliantiffs' Memorandum in Opposition To Ariad's Motion For Certification Pursuant to 28 U.S.C. §1292(B), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
46. October 12, 2006 Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
47. October 17, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Reply Memorandum of Law In Support Of Its Motion For Certification Pursuant To 28 U.S.C. §1292(b), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
48. November 3, 2006 Order, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;
49. July 7, 2006 Plaintiffs' First Set of Interrogatories to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

50. July 7, 2006 Plaintiffs' First Set of Requests for Production of Documents and Things to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

51. July 26, 2006 Defendant's Rule 26(a)(1) Initial Disclosure, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

52. July 26, 2006 Plainfiffs' Initial Disclosures Pursuant to Federal Rule of Civil Procedure 26(a)(1), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

53. August 7, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Responses And Objections to Plaintiffs' First Set of Requests For Production of Documents and Things to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

54. September 27, 2006 Defendant Ariad Pharmaceuticals, Inc.'s First Supplemental Responses And Objections To Plaintiffs' First Set of Requests for Production of Documents And Things to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

55. August 7, 2006 Defendant Ariad Pharmaceuticals, Inc.'s Responses And Objections To Plaintiff Amgen, Inc.'s First Set of Interrogatories to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

56. September 27, 2006 Defendant Ariad Pharmaceuticals, Inc.'s First Supplemental Responses and Objections To Plaintiffs' First Set Of Requests for Production of Documents and Things to Defendant, *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

57. October 11, 2006 Defendant Ariad Pharmaceuticals, Inc.'s First Supplemental Responses and Objections to Plaintiff Amgen, Inc.'s First Set of Interrogatories to Defendant,

Amgen, Inc. V. Ariad Pharmaceuticals, Inc., Civil Action 06-259-KAJ;

58. October 26, 2006 Stipulated Protective Order Pursuant To Federal Rule of Civil Procedure 26(c), *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

59. July 12, 2006 Telephone Conference before Honorable Kent A. Jordan, U.S.D.C.J., *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

60. September 11, 2006 Motions Hearing before Honorable Kent A. Jordan, U.S.D.C.J., *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

61. November 3, 2006 Motion Hearing before Honorable Kent A. Jordan, U.S.D.C.J., *Amgen, Inc. V. Ariad Pharmaceuticals, Inc.*, Civil Action 06-259-KAJ;

62. January 22, 2007 Declaration of Elizabeth L. Rosenblatt in Support of Ariad Pharma., Inc.'s Motion to Stay Litigation Pending Conclusion of Reexamination Proceedings in the Patent and Trademark Office, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-*** (MPT);

63. January 23, 2007 Defendant Ariad Pharma., Inc.'s Motion to Stay Litigation Pending Conclusion of Reexamination Proceedings in the Patent and Trademark Office, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-*** (MPT);

64. January 23, 2007 Defendant Ariad Pharma., Inc.'s Opening Memorandum of Law in Support of Its Motion to Stay Litigation Pending Conclusion of Reexamination Proceedings in the Patent and Trademark Office (including Exhibits A-G), *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-*** (MPT);

65. January 31, 2007 Plaintiffs' First Set of Requests for Admission to Defendant, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-*** (MPT);

66. February 20, 2007 Transcript of Oral Argument Hearing before Hon. Mary Pat Thynge, U.S. Magistrate Judge, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-*** (MPT);

67. February 22, 2007 Defendant Ariad Pharma., Inc.'s First Set of Requests for Production of Documents, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

68. February 22, 2007 Defendant Ariad Pharma., Inc.'s First Set of Interrogatories, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

69. March 7, 2007 Defendant Ariad Pharma., Inc.'s Responses and Objections to Plaintiffs' First Set of Requests for Admission to Defendant, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

70. March 26, 2007 Plaintiffs' Responses to Defendant's First Set of Requests for Production of Documents, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

71. March 26, 2007 Plaintiffs' Responses and Objections to Ariad's First Set of Interrogatories, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

72. April 3, 2007 Plaintiffs' Multi-Media Materials (Technology Tutorial), *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

73. April 3, 2007 Notice of Filing of Multi-Media Materials (Plaintiffs' Technology Tutorial), *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

74. April 3, 2007 Notice of Filing of Multimedia Materials (including Tabs A and B), *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

75. April 3, 2007 Ariad Pharma., Inc. Technology Tutorial, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

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77. April 13, 2007 Amended Complaint for Declaratory Judgment of Patent Invalidity and Non-Infringement, *Amgen, Inc. et al. v. Ariad Pharma., Inc.*, CA No. 06-259-MPT;

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Pharmaceuticals, Inc. et al., D. Del. Civil Action No. 06-259-MPT;

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If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, other than the enclosed $1,050.00 fee for a three-month extension of time and the $180.00 fee for filing a Supplemental Information Disclosure Statement, is deemed necessary in connection with the filing of this Amendment. Accordingly, a check for $1230.00 is enclosed. However, if any fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

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